

REMARKS

Claims 1-10 are pending in the present application. Claims 1 and 9 have been amended. The amendments do not add new matter and find support throughout the specification and figures.

The Office Action indicates that the supplemental information disclosure statement filed on July 17, 2003 fails to comply with 37 C.F.R. § 1.98(a)(1). In a telephone conversation on January 28, 2004, Examiner Fleming indicated that no PTO form 1449 was received with the supplemental information disclosure statement and the references. Therefore, Applicant includes with this amendment a copy of the supplemental information disclosure statement and the PTO form 1449 filed on July 17, 2003. Applicant respectfully requests that the references submitted on July 17, 2003 be considered and that an initialed copy of the PTO form 1449 be returned with the next communication to the Applicant.

Claims 1-4 and 10 stand rejected under 35 U.S.C. § 103(a). Claims 5-7 are allowed. Claims 8 and 9 stand objected to as depending from a rejected base claim. It is respectfully submitted that all of the presently pending claims are allowable for at least the following reasons.

35 U.S.C. § 103(a)

Claims 1, 3, 4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,339,369 to Paranjpe et al. (the Paranjpe reference) in view of United States Patent No. 5,435,409 to Meyer et al. (the Meyer reference). Applicant respectfully traverses.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), not only must the prior art **teach or suggest each element of the claim**, but the prior art must also **suggest combining the elements in the manner contemplated by the claim**. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. M.P.E.P. §2142. To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some **suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, **to modify or combine the references** and that, when so modified or combined, the prior art **teaches or suggests all of the claim**

limitations. M.P.E.P. §2143. Applicant respectfully submits that these criteria for obviousness are not met here.

Independent claim 1 recites a device for side impact detection for a motor vehicle, which includes, *inter alia*, **a reflector and a stiffening pipe connected to the reflector**. The stiffening pipe is situated in a side section of the motor vehicle. The device of claim 1 also includes **at least one sensor** situated in the side section of the motor vehicle for determining a side section deformation **that includes a distance sensor for measuring a distance to the reflector**. Additionally, the device of claim 1 includes a control unit for evaluating sensor signals from the at least one sensor in which the control unit detects a side impact as a function of the distance.

The Office Action asserts that it would have been obvious to employ in the Paranjpe reference the teaching of the Meyer reference. Specifically, the Office Action states that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Paranjpe to include a reflector and a stiffening pipe to provide a safety device for the protection of vehicle occupants.” (Office Action; sec. 3). It is respectfully submitted that there is no suggestion in the prior art to modify the Paranjpe reference in view of the Meyer reference in order to arrive at the invention of claim 1.

The Paranjpe reference relates to a retrofittable vehicle collision warning apparatus. The Paranjpe reference gives no suggestion of the usefulness of a combination with the deformation sensor using a pressure-sensitive signal element apparently discussed in the Meyer reference. Similarly, the Meyer reference provides no motivation to combine the deformation sensor using a pressure sensitive signal element discussed therein with the retrofittable vehicle collision warning apparatus of the Paranjpe reference. The only motivation to combine the references comes from the disclosure of the Applicant, which constitutes improper hindsight reasoning. Since there is no motivation or suggestion to combine the references, the references do not render the subject matter of claim 1 unpatentable.

Furthermore, Applicant respectfully submits that neither the Paranjpe reference nor the Meyer reference discusses, or even suggests, **a sensor situated in the side section of the motor vehicle which includes a distance sensor for measuring a distance to**

Appl. No. 10/045,771

Reply to Office Action of November 25, 2003

a reflector, as recited in claim 1. The Office Action relies on element 171 of the Paranjpe reference as disclosing a sensor according to claim 1. The Paranjpe reference apparently describes a collision-warning device. Distance sensor 171 of the Paranjpe reference apparently measures the distance to an obstacle. (Paranjpe; col. 10, ll. 20-23). Therefore, the sensor of Paranjpe apparently measures distances from the vehicle in which the sensor is located to an obstacle that is outside the vehicle. In contrast, the device according to claim 1 measures a distance in the side section between the sensor and a reflector that is also situated in a side section of the motor vehicle. Therefore, both the sensor and the reflector are in the side section of the vehicle. The sensor according to the Paranjpe reference does not disclose, or even suggest, the sensor according to claim 1. Since none of the cited references disclose, or even suggest, this feature of claim 1, it is respectfully requested that the rejection be withdrawn.

Additionally, the Office Action admits that the Paranjpe reference does not teach a reflector. (Office Action; sec. 3). The Office Action asserts that this feature is taught by element 3 of the Meyer reference. However, element 3 of the Meyer reference apparently relates to a protective or trim strip. (Meyer; col. 3, line 34). There is no indication that element 3 of the Meyer reference is a reflector, or reflects anything. Therefore, since the reflector is not disclosed, or even suggested, in either of the cited references, it is respectfully requested that the rejection be withdrawn.

Further, although the Office Action admits that the Paranjpe reference does not teach a stiffening pipe, the Office Action asserts that this feature is taught by the Meyer reference. (Office Action; sec. 3). The device according to claim 1 recites a stiffening pipe connected to the reflector. The stiffening pipe of claim 1 is situated in a side section of the motor vehicle. The Office Action asserts that this feature is taught by element 2 of the Meyer reference. However, element 2 of the Meyer reference apparently relates to a reinforcing profile. (Meyer; col. 3, line 34). There is no indication that element 2 of the Meyer reference is a stiffening pipe. Further, even if element 2 of the Meyer reference relates to a stiffening pipe, which is respectfully not conceded, element 2 is not connected to any reflector, much less element 3 which the Office Action asserts is a reflector, and which is also respectfully not conceded. Therefore, since a stiffening pipe connected to a reflector is not disclosed, or

even suggested, in either of the cited references, it is respectfully requested that the rejection be withdrawn.

None of the cited references disclose, or even suggest a reflector, a stiffening pipe connected to the reflector, or a sensor including a distance sensor for measuring a distance to the reflector, as recited in claim 1. Therefore, since these features are not disclosed in either of the cited references, it is respectfully requested that the rejection be withdrawn.

Claims 3, 4 and 10 depend from claim 1 and are therefore allowable for at least the same reasons as claim 1 is allowable.

Additionally, with respect to claim 3, which recites that a surface of the stiffening pipe is the reflector, it is respectfully submitted that there is no disclosure, or even suggestion, in either of the cited references of a surface of the stiffening pipe being the reflector. Therefore, for this additional reason, claim 3 is patentable over the cited references.

Additionally, with respect to claim 4, which recites that the stiffening pipe is connected to a metal plate as the reflector, it is respectfully submitted that there is no disclosure, or even suggestion, in either of the cited references of a metal plate operating as a reflector and being connected to the stiffening pipe. Therefore, for this additional reason, claim 4 is patentable over the cited references.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being obvious over the Paranjpe reference in view of United States Patent No. 6,209,909 to Breed (the Breed reference). Applicant respectfully traverses.

Claim 2 is allowable for at least the same reasons as claim 1 is allowable as described above. The addition of the Breed reference fails to cure the deficiencies noted above with respect to the Paranjpe and Meyer references as discussed with respect to claim 1. Specifically, the Breed reference does not disclose, or even suggest, a **reflector** or a **stiffening pipe connected to the reflector**. Further, the Breed reference does not disclose, or even suggest, a sensor that includes a **distance sensor for measuring a distance to the reflector**. The Breed reference apparently relates to a sensor that anticipates a vehicle collision. There is no indication that the sensor in the Breed reference measures a deformation, as recited in claim 1.

Appl. No. 10/045,771

Reply to Office Action of November 25, 2003

For at least the reasons discussed above, withdrawal of the rejections under 35 U.S.C. §103(a) with respect to claims 1-4 and 10 is hereby respectfully requested.

Objected Claims

Claims 8 and 9 stand objected to as depending from a rejected base claim. However, claim 8 depends from allowed claim 7, and therefore Applicant respectfully submits that claim 8 is allowable in its present form.

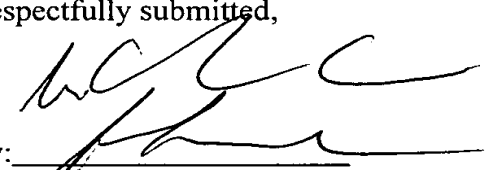
Applicant thanks the Examiner for indicating the allowability of claim 9. Claim 9 has been amended to include the features of its base claim and therefore it is respectfully submitted that claim 9 is allowable.

CONCLUSION

Applicant respectfully submits that all of the pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Dated: 18 Feb 2004

By: 
Richard L. Mayer
Reg. No. 22,490

Cg N 3609b

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646